

House Bill 702

By: Representative Carter of the 159th

A BILL TO BE ENTITLED
AN ACT

To amend Article 8 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to the protection of elderly persons, so as to provide that the offense of cruelty to a person 65 years of age or older includes the exploitation of a disabled adult or elder person; to amend Article 4 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to reporting abuse or exploitation of residents in long term care facilities, so as to provide that the exploitation of certain persons in long-term care facilities shall be a felony; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 8 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, relating to the protection of elderly persons, is amended by revising Code Section 16-5-100, relating to cruelty to a person 65 years of age or older, as follows:

"(a) As used in this Code section, the term 'exploitation' shall have the same meaning as provided for in paragraph (9) of Code Section 31-8-81.

(b) A guardian or other person supervising the welfare of or having immediate charge or custody of a person who is 65 years of age or older commits the offense of cruelty to a person who is 65 years of age or older when the person:

(1) Willfully ~~willfully~~ deprives a person who is 65 years of age or older of health care, shelter, or necessary sustenance to the extent that the health or well-being of a person who is 65 years of age or older is jeopardized; or

(2) Has committed the exploitation of a person who is 65 years of age or older.

~~(b)~~(c) The provisions of this Code section shall not apply to a physician nor any person acting under a physician's direction nor to a hospital, skilled nursing facility, hospice, nor any agent or employee thereof who is in good faith following a course of treatment developed in accordance with accepted medical standards or who is acting in good faith in accordance with a living will, a durable power of attorney for health care, an advance

directive for health care, an order not to resuscitate, or the instructions of the patient or the patient's lawful surrogate decision maker, nor shall the provisions of this Code section require any physician, any institution licensed in accordance with Chapter 7 of Title 31 or any employee or agent thereof to provide health care services or shelter to any person in the absence of another legal obligation to do so.

~~(b.1)~~(d) The provisions of this Code section shall not apply to a guardian or other person supervising the welfare of or having immediate charge or control of a person who is 65 years of age or older who in good faith provides treatment by spiritual means alone through prayer for the person's physical or mental condition, in lieu of medical treatment, in accordance with the practices of and written notarized consent of the person.

~~(c)~~(e) A person convicted of the offense of cruelty to a person who is 65 years of age or older as provided in this Code section shall be punished by imprisonment for not less than one nor more than 20 years."

SECTION 2.

Article 4 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to reporting abuse or exploitation of residents in long-term care facilities, is amended by adding a new Code section to read as follows:

"31-8-89.

(a)(1) In addition to any other provision of law, the abuse, neglect, or exploitation of any disabled adult or elder person shall be unlawful.

(2) Except as otherwise provided in Title 16, any person violating the provisions of this subsection shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years.

(b) Each violation of this Code section shall constitute a separate offense."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.